

Chapter 761 CHRONIC NUISANCE PREMISES

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Sec. 761-1. Definitions.

For the purpose of this chapter the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-1-C. Chronic Nuisance.

"Chronic nuisance" shall mean a premises or property that is in violation of C.M.C. 761-5.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-1-N. Nuisance or Nuisance Activity.

"Nuisance" or "nuisance activity" shall mean any of the following activities, conduct, or behavior whenever engaged in by premises owners, operators, occupants, or persons associated with a premises:

- (a) Assault, aggravated assault, or felonious assault as defined in C.M.C. 908-5 or as defined in Ohio Revised Code Sections 2903.11, 2903.12, or 2903.13;
- (b) Menacing, aggravated menacing, or menacing by stalking as defined in C.M.C. 908-3, 908-7, or 908-9 or as defined in Ohio Revised Code Sections 2903.21, 2903.22, or 2903.211;

- (c) Inducing panic, making a false alarm, or perpetrating a hoax weapon of mass destruction as defined in Ohio Revised Code Sections 2917.31, 2917.32, and 2917.33;
- (d) Disrupting public services as defined in Ohio Revised Code Section 2909.04;
- (e) Curfew violation as defined in C.M.C. 911-27;
- (f) Attendance at school violation as defined in C.M.C. 910-1;
- (g) Disorderly conduct as defined in Ohio Revised Code Section 2917.11;
- (h) Discharging firearms in violation of C.M.C. 708-27;
- (i) Drug sale or use as defined in C.M.C. 910-21 and 910-23 and Ohio Revised Code Chapter 2925;
- (j) Compelling or promoting prostitution, procuring, soliciting, or loitering to engage in solicitation, or prostitution as defined Ohio Revised Code Sections 2907.21 through 2907.25, inclusive;
- (k) Public gaming as defined in C.M.C. 906-9 or in Ohio Revised Code Section 2915.04;
- (l) Unauthorized possession, sale, or discharge of fireworks as defined in C.M.C. 1213-7 or in Ohio Revised Code Section 3743.65;
- (m) Loud noises as defined in C.M.C. 910-7;
- (n) Loud, dangerous, or vicious dog as defined in C.M.C. 701-4, 701-5, 701-6, 701-7, or 701-27;
- (o) Kidnapping as defined in Ohio Revised Code Section 2905.01.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-1-O. Occupant.

"Occupant" shall mean the person residing in or having use of a premises. The same person or persons can be owner and occupant.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-1-O1. Operator.

"Operator" shall mean any person, firm, company, corporation or association, including their employees, agents, or contractors, that controls, operates, or manages a premise(s).

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-1-O2. Owner.

"Owner" shall mean any person, partnership, firm, or corporation, who alone or jointly with others, shall be in possession of or have control of any premises or is listed as the owner of a premises on the records of the Hamilton County Auditor.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-1-P. Person Associated With.

"Person associated with" shall mean any person who, whenever engaged in a nuisance or nuisance activity, enters, patronizes, visits; attempts to enter, patronize or visit; or waits to enter, patronize, or visit, a premises or person present on a premises, including any officer, director, customer, agent, employee, or independent contractor of a premises owner.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-1-P1. Property or Premises.

"Property" or "premises" shall mean a platted lot or part thereof, or unplatted lot or parcel of land, or plot of land either occupied or unoccupied by any building or structure, equipment, or property of any kind.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-3. Notification That Premises May Be a Chronic Nuisance.

(a) The police chief or his or her designee may notify a premises owner in writing that the premises is in danger of becoming a chronic nuisance when either of the following circumstances has occurred at the premises:

- (1) When three or more nuisance activities have occurred at the premises on separate days during a thirty-day period; or
- (2) When, within a one-year period, the following number of nuisance activities has occurred at the premises:
 - (A) *Premises with 2 or 3 residential units:* 6 nuisance activities
 - (B) *Premises with 4 to 19 residential units:* 14 nuisance activities
 - (C) *Premises with 20 to 39 residential units:* 18 nuisance activities

(D) *Premises with over 40 residential units:* 11 nuisance activities

(b) The notice provided for in Section 761-3(a) shall be deemed properly delivered if sent by first class mail to the address for the owner listed on the records of the Hamilton County Auditor. If the notice is returned as undeliverable, the notice shall be deemed properly delivered if it is either posted on the front door of the premises that is the subject of the notice and order or if it is delivered in person to the owner. The notice shall contain the following information:

- (1) The street address or legal description sufficient for identification of the premises;
- (2) A description of the nuisance activities that have occurred at the premises, including the dates of the nuisance activities;
- (3) A statement that the premises owner shall respond to the police chief or his or her designee within 10 days of the date of the owner's receipt of the notice with a written plan to abate the nuisance activities that is acceptable to the police chief or his or her designee;
- (4) A statement that the cost of future enforcement at the premises as a result of nuisance activities may be billed to the premises owner and could become a lien against the property if not paid.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-5. Determination That Premises is a Chronic Nuisance.

(a) Whenever the police chief or his or her designee determines that an additional nuisance activity has occurred at a premises for which a notice has been issued pursuant to Section 761-3, and this nuisance activity occurs more than 13 days after the notice has been issued, the police chief or his or her designee may determine that the premises is a chronic nuisance and order that the owner abate the nuisance within 30 days of the owner's receipt of the notice. The police chief or his or her designee also may calculate the cost of enforcement for this and any subsequent nuisance activities, notify the owner that the owner is being billed for the cost of this and any subsequent nuisance activities, and bill the owner for the cost of enforcement.

(b) The notice and order provided for in Section 761-5(a) shall be deemed properly delivered if sent by first class mail to the address for the owner listed on the records of the Hamilton County auditor. If the notice and order are returned as undeliverable, the notice and order shall be deemed properly delivered if they are either posted on the front door of the premises that is the subject of the notice and order or if they are delivered in person to the owner. The notice shall contain the following information:

- (1) The street address or legal description sufficient for identification of the premises;

(2) A description of the nuisance activity or activities for which the premises owner is being billed, including the dates of the nuisance activity or activities;

(3) An order that the nuisance activity be abated; and

(4) A statement that the premises owner may appeal the determination that the owner's premises is a chronic nuisance or may appeal the amount of the bill as provided in Section 761-9.

(c) A determination that a premises is a chronic nuisance subject to bills for the cost of enforcement pursuant to Section 761-5 and subject to fines or criminal prosecution pursuant to Section 761-7 shall be effective for a two-year period beginning with the date of the first nuisance activity that is the subject of the first bill for enforcement sent to the premises owner for that specific premises.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-7. Citations For Multiple Nuisance Activities; Criminal And Civil Penalties.

(a) Whoever violates this chapter or fails to obey any lawful order issued by the police chief or his or her designee to abate a chronic nuisance, is guilty of a misdemeanor of the fourth degree on the first offense and guilty of a misdemeanor of the third degree on the second and subsequent offense. Each day's continuation of a violation or failure to comply is a separate offense.

(b) As an alternative to criminal prosecution, the police chief or his or her designee may cite a person who violates any provision of this chapter or fails to obey any order to abate a chronic nuisance.

(1) Citations for nuisance activities shall be imposed based on the number of bills for enforcement sent to a premises owner for a specific premise(s) within a two-year period beginning with the date of the nuisance activity that is the subject of the first bill for enforcement sent to the premises owner for that specific premises.

(2) Whenever a premises owner has been billed on three or more separate dates within a two-year period beginning with the date of the nuisance activity that is the subject of the first bill for enforcement sent to the premises owner for that specific premises, the police chief or his or her designee shall issue a citation to the premises owner as follows:

(A) *For the fourth bill within a two-year period,* a citation of \$250.00 shall be imposed;

(B) *For the fifth bill within a two-year period,* a citation of \$500.00 shall be imposed;

(C) *For the sixth bill within a two-year period, a citation of \$750.00 shall be imposed;*

(D) *For each bill after the sixth bill within a two-year period, a citation of \$1,000.00 shall be imposed.*

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-9. Appeals.

(a) A premises owner may appeal the determination of the police chief or his or her designee pursuant to Section 761-5(a) that a premises is a chronic nuisance or may appeal the amount of the bill for enforcement related to nuisance activities at the premises pursuant to Section 761-5(b) within 30 days from the date of the notification from the police chief or his or her designee that the premises is a chronic nuisance or within 30 days from the date the bill is issued.

(b) An appeal of the determination that a premises is a chronic nuisance or the amount of the bill for enforcement related to nuisance activities at the premises must be made in writing and directed to the Chronic Nuisance Reduction Commander, who shall be appointed or designated by the police chief. A written notification of the Chronic Nuisance Reduction Commander's determination will be sent within 30 days of receipt of appeal. No change in the chronic nuisance status of the premises may be made without going through the written appeal process.

(c) A premises owner may appeal the Chronic Nuisance Reduction Commander's determination that the premises is a chronic nuisance or the determination regarding the amount of the bill for enforcement within 30 days from the date of the Chronic Nuisance Reduction Commander's determination by requesting that an administrative hearing be conducted by a hearing examiner with the Office of Administrative Hearings. A premises owner may appeal the issuance of the citation pursuant to Section 761-5(c) within 30 days from the date citation is issued by requesting an administrative hearing be conducted by a hearing examiner with the Office of Administrative Hearings. The hearing examiner will issue a written determination on any appeal brought pursuant to Section 761-9.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-11. Liens.

Bills for enforcement and citations that are not paid will become liens on the premises to the extent permitted under applicable law.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)

Sec. 761-13. Rules and Regulations.

The city manager shall establish rules and regulations for the maintenance of information, notification of violations, calculation of bills for enforcement services, imposition of fines, determination of when calls for service are counted for purposes of this ordinance, appeals of decisions made, and all other relevant issues as he or she deems necessary for implementation of this chapter. The rules and regulations and amendments thereto shall be published in the City Bulletin 30 days prior to their effective date.

(Ordained by Ord. No. 296-2006, eff. 11-11-06)